IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

Crl.MC.No. 1928 of 2007()

CRIME NO.3 OF 2007 OF MANJESWHARAM POLICE STATION
CMP.6074/2006 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONERS:

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1. ABDUL AZEEZ, AGED 32 YEARS,
   S/O LATE IMMAM SAHIB, BALLADY HOUSE,
   MIYAR, SAMADA KALPU, DHARMASTHALA,
   KARNATAKA STATE.

2. SAUDABI, AGED 45 YEARS,
   W/O LATE IMMAM SAHIB, BALLADY HOUSE,
   MIYAR, SAMADA KALPU, DHARMASTHALA,
   KARNATAKA STATE.

3. LATHEEF, AGED 28 YEARS,
   S/O LATE IMMAM SAHIB, BALLADY HOUSE,
   MIYAR, SAMADA KALPU, DHARMASTHALA,
   KARNATAKA STATE.

BY ADV. SRI.K.S.BABU

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. YASMIN BABU, AGED 23 YEARS,
   D/O ADAM SAHIB, KANDOOR,
   PATHWADY ROAD, UPPALA P.O., KASARGOD TALUK,
   KASARGOD DISTROCT, NOW RESIDING AT BALLADY HOUSE,
   MIYAR, SAMADA KALPU, DHARMASTHALA,
   KARNATAKA STATE.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB
R2 BY ADV. SRI.GEEN T.MATHEW

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1928 of 2007

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Dated this the 14th day of June, 2007

O R D E R

The petitioners are the husband, mother-in-law and brother-in-law of the second respondent. They face allegations under Sections 323 and 498A r/w. 34 I.P.C. Proceedings commenced on the basis of a private complaint filed by the second respondent, which was forwarded to the police under Section 156(3) Cr.P.C. Police have registered Crime No. 3 of 2007 on the basis of such complaint on 2.1.2007. Investigation is in progress.

2. The petitioners have come before this Court along with the second respondent to apprise the Court of the fact that the dispute between the parties has been settled. The first petitioner and the second respondent have resumed harmonious cohabitation. The continuance of the investigation is an unnecessary irritant in their relationship now. In these circumstances the petitioners have come before this Court along with the second respondent to request the court that the F.I.R. under Section 323, 498A r/w. 34 I.P.C. against the petitioners may be quashed.

3. The second respondent has entered appearance through counsel. The learned counsel for the second respondent vouches that the matter has been settled between the parties and the second respondent has no surviving grievance against any of the petitioners now. Both counsel pray that the settlement and composition may be accepted and the proceedings initiated against the petitioners may be brought to premature termination.

4. From the submissions made at the Bar, from the averments in the Crl.M.C. and from the joint statement filed by the first petitioner and the second respondent, which is duly counter signed by the respective counsel for the parties, I am satisfied that the matter has been settled voluntarily and amicably by the parties. I am satisfied that if legally permissible the composition can be accepted and the proceedings brought to premature termination.

4. The offence under Section 498A I.P.C. is not legally compoundable and the composition cannot be accepted under Section 320 Cr.P.C. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions

of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. I find that this is an eminently fit case where the dictum in **B.S. Joshi** deserves to be invoked and the proceedings brought to premature termination invoking such jurisdiction under Section 482 Cr.P.C.

5. This Crl.M.C. is hence allowed. Annex.I F.I.R., i.e. Crime No.3 of 2007, of Manjeswaram Police Station, Kasaragod, is hereby quashed.

(R. BASANT)
Judge

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